

Law
No. 91 For The Year 2013
Regarding Combating Human
Trafficking And Smuggling Immigrants

Following perusal of the constitution,

Decree No. 17 for the year 1959, regarding the law for the stay of foreigners and laws amending it,

Law No. 16, for the year 1960, regarding the issuance of the penal code and laws amending it,

Law No. 17, for the year 1960, for the issuance of the law for penal procedures and trials and laws amending it,

Law No. 11 for the year 1962, regarding passports and laws amending it,

Law No. 38 for the year 1964, regarding work in the private sector and laws amending it,

Law No. 3 for the year 1983, regarding Juveniles,

Law No. 5 for the year 2006, regarding the approval on the United Nations Treaty for Combating Trans- National Organized Crimes and the two Protocols associated with them.

The Parliament endorsed the law whose text is as follows; we ratified it and issued it.

Article -1-

It shall be meant with the following phrases the meanings stated in front of each of them:-

1- The Trans- National Crime:

V

It is the crime that is committed in any of the following conditions:-

X

A- In more than one country.

B- In one country but it was prepared or planned, directed, or supervised in another country.

C- In one country through an organized criminal group practicing criminal activities in more than one country.

D- In one country but its effects extended to another country or more.

2- An Organized Criminal Group:-

V

An organized group constituted of three persons or more, and undertakes a prepared act to commit any of the crimes of human trafficking with the intention of obtaining whether directly or indirectly a financial benefit or another material benefit.

3- The Child:-

V

Every person who is not over eighteen years of age.

4- Human Trafficking:-

V

To recruit persons or use, transport or shelter or receive them through coercion or through use of force or threatening to use it or with other than this of the forms of kidnapping, fraudulence, deceit, or compelling, or use of authority or power or exploiting a status of weakness or giving or receiving financial amounts or privileges in kind for the purpose which includes the exploitation of the others' prostitution or any form of sexual forms of exploitation, or forced labor, or involuntary servitude, or enslavement, or practices resembling slavery or removing body organs.

5- Smuggling Immigrants:-

V

To arrange the illegal entry of a certain person or persons to a country that they are not of its citizens, or residing in it a permanent residence in order to obtain directly or indirectly a financial benefit or other material benefits.

6- The Illegal Entry:-

V

To cross the frontiers, or to enter land or marine ports or airports without adhering to the conditions which are necessary for legal entry to the receiving country?

7- The Forged Passports or Identity document:-

V

It is any forged passport or a document for personal identification in any of the following cases:-

X

1- If it was forged, made up or modified a material modification by a person other than the person or the authority that is legally authorized to prepare and issue the passport or identity document on behalf of the concerned country.

2- If it was issued by an improper method or was obtained through fraudulence, corruption, coercion or through any other illegal method.

3- If it was used by a person other than its legitimate person.

Article -2-

Human Trafficking

Without prejudice to any severer penalty stipulated by another law, he shall be penalized by imprisonment for fifteen year every person who undertakes human trafficking as stipulated in Article 1 of this law.

The penalty shall be life imprisonment if the crime is associated with any of the following conditions:-

1- If the crime is committed through an organized crime group and the perpetrator participated in its establishment, its organization, its management or undertook a leadership position in it or joined it with his knowledge of its objectives.

2- If the crime has a trans-national feature.

3- If the perpetrator is the husband of the victim or one of his ascendants or descendants, or has an authority over him.

4- If the crime is committed by two persons or more or a person carrying an apparent or concealed weapon.

5- If the crime entails severe harm to the victim or causes him a permanent disability.

6- If the perpetrator is a public servant in the state or in one of the states in which the crime was either committed or prepared for it or entailed in it some of its effects, and his job was significant in facilitating the committing of the crime or its completion.

7- If the victim is a child or a female or a person of special needs.

The penalty shall be the death penalty if the crime which was committed entailed the death of the victim.

In all cases shall not be taken into consideration the approval or consent of the victim regarding the targeted acts for exploitation in these crimes.

Article -3-

Smuggling Immigrants

Without prejudice to any severer penalty stipulated by another it shall be penalized by imprisonment for a period not exceeding ten years and a fine of not less than three thousand Dinars and not more than ten thousand Dinars every person who smuggles immigrants as set out in Article 1 of this law.

The penalty shall be imprisonment for a period that is not exceeding fifteen years and a fine that is not less than three thousand Dinars and not exceeding twenty thousand Dinars if the crime is associated with one of the following circumstances:-

1- If the crime is committed through an organized criminal group that the perpetrator participated in establishing, organizing or managing it or undertook a leadership position in it or joined it with his knowledge of its purposes .

2- If the crime has a trans-national feature.

3- If the crime is committed by two persons or more or a person carrying an apparent or concealed weapon.

4- If the perpetrator is a public servant in the state and used his position to commit the crime or the perpetrator has a significant standing or an influence on the authorities relating to the entry of foreigners to it or their crossing its borders or ports

5- If it is used a forged passport or a false identity to commit the crime.

Article -4-

He shall be penalized with imprisonment for a period that does not exceed five years every person who hid one or more persons that committed the crimes stipulated in the two preceding articles or participated in committing the crime or of the victims with the intention to escape from justice, or for any other purpose with his full knowledge of this,

and all those who contributed in concealing the features of the crime.

The court may exempt the perpetrator from the penalty if the hidden person is the wife (husband) or one of the perpetrator's ascendants or descendants, and provided that the perpetrator is not one of those who committed one of the two crimes stipulated in the two precedent articles or participated in committing it.

He shall be penalized with imprisonment for a period that does not exceed three years and a fine that is not more than three thousand Dinars or by one of these two penalties every person who concealed or disposed of anything earned from this crime.

Article -5-

In all cases, it shall be ruled the confiscation of movable properties, means of transportation and the seized items that were used or were supposed to be used for committing the crimes stipulated in the preceding articles, and also the revenue earned from it. This shall be without prejudice to the rights of other bona fide persons.

Article -6-

He shall be penalized with the penalties decided for the crimes stipulated in the preceding articles each of the legal representative and the actual manager of the juristic personality if the crime was committed on behalf of the juristic personality or in his name with his full knowledge of this. This shall be without prejudice criminal responsibility of the perpetrator.

It must be ruled, in addition to this, to dissolve the juristic personality, to close its headquarter, and its branches that undertake its activity a permanent or a temporary closure for a period that is not less than six months and does not exceed one year.

Article -7-

He shall be penalized imprisonment for a period that does not exceed three years and fine that is not less than one thousand Dinars and does not exceed three thousand Dinars or by one of these two penalties every person who knows of the project to commit a crime of the crimes stipulated in both Article 2 and 3 and did not report it to the competent authorities.

The court may exempt the perpetrator from the penalty if the person who abstained from reporting is the wife (husband) or one of the perpetrator's ascendants or descendants, or of his relatives till the fourth degree.

Article -8-

He shall be penalized for a period that is not more than fifteen years every person who attacks one of the officers that execute this law or resists him with force or violence during the execution of this job or due to it.

The penalty shall be life or temporary imprisonment for a period not exceeding fifteen year if the attack or the resistance entailed a permanent disability or a gross deformation that cannot be cured, or if the perpetrator was carrying a weapon or was of the authority men who are assigned to maintain security.

The penalty shall be the death penalty if the attack or the resistance led to death.

Article -9-

He shall be penalized with imprisonment for a period that does not exceed five years every person who uses force or threatens or offers a present or a benefit of any kind or a promise of something of these, to drive a person to commit perjury or to state information or data that are faulty before the investigation authority or the competent court as regards the commitment of the crimes stipulated upon in this law.

Article -10-

It shall be exempted from the penalties stipulated in both Article 2 and 3 herein every person from the perpetrators who rushed to notify the competent authorities of what he knows about the crime prior to its commitment.

It shall be permissible for the court to exempt from the penalty if the notification after the commitment of the crime and prior to the start of the investigation. Also, this shall also be permitted if the perpetrator in the investigation enabled the authorities to apprehend the other perpetrators of the crime.

Article -11-

The public prosecution apart from others has the competency to investigate, to act and to prosecute regarding the crimes stipulated upon herein and crimes associated to them.

Article -12-

The public prosecution or the court of judiciary competency, during viewing the crimes stipulated upon in both Article 2 and 3 of this law, shall order the undertaking of what it considers of the following arrangements:-

1- To refer the victim in the human trafficking crime or the person that was smuggled of the immigrants to the medical authorities or the social care homes according to cases to provide the necessary treatment and care for him.

2- To place into one of the shelter centers that are allocated by the state for this purpose till he is returned to the state to which he is affiliated with his nationality or in which he was residing at the time of the commitment of the crime.

Article -13-

In exception of the rule of Article 83 of the penal code, it shall not be permissible when applying the rules of this law to lower the death penalty for life imprisonment, or to decrease life imprisonment to the maximum limit for the penalty of temporary imprisonment.

Also it shall not be permissible the penalty's stay of execution or to abstain from declaring the penalty for any of the crimes which are stipulated upon herein.

Article -14-

The Prime Minister and the Ministers, each within his competency, shall execute this law and it shall be published in the official gazette.

Prince of Kuwait
Subah Al Ahmad Al Jaber Al Subah
Issued at Al Seif Palace
On : 27th Rabai Al Alkher, 1434 Hijri,

Corresponding to: 10th March, 2013, A.D.

Salah Al-Jasim Computer Systems +965 246 7712 +965 240 2093 Fax +965 246 7713